

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

U.S. ETHERNET INNOVATIONS, LLC.,	§	
Plaintiff,	§	CASE NO. 6:12-CV-235-MHS-JDL
	§	
v.	§	JURY TRIAL DEMANDED
	§	
RICOH AMERICAS CORPORATION	§	
Defendant.	§	

ORDER

Before the Court is Plaintiff U.S. Ethernet Innovations, LLC's (USEI) Motion to Compel Depositions and Discovery from STMicroelectronics Inc. ("ST") (Doc. No. 317).

USEI's continuing reliance on the outcome of its discovery dispute involving "reasonably similar" products with Oki Data Americas ("Oki"), Inc. and Xerox Corporation ("Xerox") is inapposite. USEI's dispute with Oki and Xerox was narrowly limited to the identity of third-party "Ethernet components" incorporated in Oki and Xerox products. USEI "didn't know which chipsets [were] used in which specific products," and such information was not otherwise publically available. (Doc. No. 264, 29:6-7, 43:3-11). Therefore, discovery of the specific "Ethernet components" incorporated in Oki and Xerox products was appropriate. However, unlike Oki and Xerox, ST sells chips which are themselves the "Ethernet components" used in products like Oki's and Xerox's, and ST's publically available website discloses "comprehensive technical information regarding the [Ethernet components] that ST sells in the United States." (Doc. No. 328 at 4, 5).

USEI also alleges that discovery must be compelled because ST's website *may* omit products not be currently available. (Doc. No. 317 at 5). However, USEI provides no evidence

that any such past products *might* actually be omitted from ST's publically available website, despite a year of discovery (Doc. No. 44) during which ST has most recently produced detailed technical information regarding at least 47 additional products that USEI failed to identify, and 28 GB of software. (Doc. No. 328 at 1). Moreover, USEI provides no explanation for the three month delay between the June 6 hearing at which it first asserted the "reasonably similar" argument against Oki and Xerox and the instant Motion to Compel Depositions and Discovery. Discovery needs to close, and USEI has failed to demonstrate diligence despite impending deadlines.

Accordingly, because USEI's arguments are inapplicable and because USEI has not been diligent raising the issues presented in its Motion to Compel Depositions and Discovery, the Court **DENIES-IN-PART** USEI's Motion to Compel Depositions and Discovery (Doc. No. 317). USEI is **ORDERED** to identify all ST Products USEI is accusing in Infringement Contentions to be provided to ST by **October 30, 2013**, in accordance with this Court's earlier Order (Doc. No. 326).

With respect to *only* the products USEI has identified in its Infringement Contentions already served on ST, ST is **ORDERED** as follows:

- Produce data sheets and technical sheets by **October 23, 2013**;
- Produce any RTL Code or Software Driver Code currently in possession of STMicroelectronics, Inc. (not STMicroelectronics s.r.l., in Italy, nor STMicroelectronics S.A. in France) in accord with the Protective Order (Doc. No. 78), per ST's offer to do so (Doc. No. 328 at 10), by **October 23, 2013**;
- Request from STMicroelectronics s.r.l., in Italy and STMicroelectronics S.A. in France RTL Code and Software Driver Code, and produce any code received as the result of

such a request to USEI in accord with the Protective Order (Doc. No. 78) by **October 23, 2013.**

So ORDERED and SIGNED this 15th day of October, 2013.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE